

2/21 93

Dipl.-Phys. Gerd W. Krämer



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23. Nov. 2004

U.S. Patent and Trademark Office  
Mail Stop Petitions  
Commissioner for Patents  
- Senior Petitions Attorney Patricia Faison-Ball -  
P.O. Box 1450  
Alexandria, VA 22313-1450, U.S.A.

Application No.: 09/704,803  
Title: Automatic-Programming  
Customer-No.: 28162  
Confirmation-No: 4598  
Filing-Date: 11/02/2000  
Inventor: Gerd W. Krämer  
Group Art Unit: 2121  
Examiner: Starks, Wilbert L

Your Letter from 17.Nov.2004 according to my  
Petition to Revive my unavoidable abandoned Patent Application

Dear Senior Petitions Attorney Patricia Faison-Ball,

today I received a Letter from you, dismissing my Petition from 14.Oct.2004 to revive my unavoidable abandoned Patent Application, because my Petition would lack 37 CFR § 1.137(a) (1)+(2), which means, that *issue\_fee* and *petition\_fee* would be missing, and for reconsideration I should include a letter entitled „Renewed Petition under 37 CFR 1.137 (b)“, and you continue that „the petition fee and the issue fee, for small entity, were both set at \$685.00 each“.

At first, you jumble the petition fees under Title 37 C.F.R. § 1.137 (a) and (b):  
Only the petition fee under 37 C.F.R. § 1.137(b) [*unintentionally abandoned*] is the same amount as the *issue\_fee* ! - The petition fee under 37 C.F.R. § 1.137(a) [*unavoidable abandoned*] is \$ 55 !!

And then you tell that the *issue\_fee* would be \$685. Surely the *issue\_fee* after 1.Oct.2004 is \$ 685. To make no mistake, I asked Legal Advisor *Anthony Knight* how much I have to pay, because your Website tells \$ 685 and your letter from 27.Oct.2003 told \$ 665.

First I thought -because my payment is after 1.Oct.2004- that I'd have to pay the (newer) higher price, but Legal Advisor *Anthony Knight* told me, that I have to pay the \$ 665 issue fee (from the letter) plus \$ 55 petition fee for the unavoidable abandoned patent.

...

It would not have been a problem to pay \$ 685 instead of \$ 665, but it is a problem to change it afterwards, because for every money transfer from here to the USA my bank takes 16 €, so additional \$ 20 would cost 19 € + 16 € = 35 € on my side, and it is not my fault, that your office told me on the phone on 14.Oct.2004, that I have to pay \$ 665 issue fee and not \$ 685.

On 14.Oct.2004 the \$ 720 (\$ 665 issue\_fee plus \$ 55 petition\_fee) where transferred from my account to the USPTO (and additional 2 € courtage + 14 € transfer\_fee took my bank). To prove you that, I append here a copy of the abstract\_of\_my\_account from the date of transfer.

So the \$ 720 must have reached your office about a week later with the text

**"665 ISSUE FEE CODE 2452 AND 55 REVIVAL PETITION FEE CODE 2551  
FOR APP.NR. 09/740,803"**

and my sender name.

The same way I transferred on 07.Mar.2001 the patent application fees (\$ 559) without any problem.

But your letter tells, that issue\_fee and petition\_fee would still be missing !!

For an investigation where the money is, my bank would take a minimum of 25 €.

So please check first, if your office has incoming money from "GERD KRAEMER" with the text shown above. In forms the Umlaut "ä" often has to be written as "AE", and so I did this time either. Maybe that caused an assignation problem.

The difference between the petition\_fees for *unavoidable* and *unintentional* abandoned patent [37 CFR 1.17 (l): \$55 and 37 CFR 1.17 (m): \$605 :in my old download from Title 37 C.F.R. – surely it's still the same as the -in between raised- issue\_fee] is a problem, where I would fight for.

If the Office\_of\_Petitions would not agree, that the Abandonment was unavoidable (which I proved in my letters from 07.Jan.2004 and 27.Jan.2004 to Examiner Wilbert Starks and in my letter from 14.Oct.2004 to you), please tell me the name of the plaintiff and the address of the court and the time period in which the plaintiff has to be made.

*With friendly greetings*



Gerd Krämer

**Annexed:**

- Copy of "Zahlungsauftrag im Außenwirtschaftsverkehr" (used filled form of the money-transfer to USPTO)
- Copy of the abstract\_of\_my\_account from 15.Oct.2004

52: An Kreditinstitut

SPARKASSE  
63181 LEIMEN

Bankzahl

67250020

Konto-Nummer des Kontoinhabers/Einzahlers

1000300558

Referenz des Kontoinhabers

Zahlung zu Lasten

1 = Euro-Konto  
2 = WährungskontoKeine Angabe bedeutet Zahlung  
zu Lasten des Euro-Kontos

32: Währung

Betrag

US\$ 720,00

Zielland

US

Version

0001

50: Name des Kontoinhabers/Einzahlers

GERD KRAEMER

Straße

RATHAUSSTR. 1

Postleitzahl

69181 LEIMEN

57: Bank des Begünstigten  
(bevorzugt als S.W.I.F.T.-Code)

BIC (S.W.I.F.T.-Code)

Ist sowohl der S.W.I.F.T.-Code als auch Name  
und Anschrift der Bank ausgefüllt, wird die Zah-  
lung gemäß S.W.I.F.T.-Code ausgeführt.

Name des Kreditinstituts des Begünstigten

Straße

Ort/Land

59: IBAN bzw. Konto-Nr. des Begünstigten und Bank-Code (max. 27 Stellen, bei maschineller Beschriftung max. 35 Stellen)

Name des Begünstigten

US PATENT + TRADEMARK OFFICE

Straße

2011 JEFFERSON DAVIS HIGHWAY

Ort/Land

ARLINGTON, VA 22202, U.S.A.

70: Verwendungszweck (nur für Begünstigten)

665 ISSUE FEE CODE 2452 AND

55 REVIVAL PETITION FEE CODE

2551 FOR APP. NR. 09/704,803

Zusätzliche Weisungen für das Kreditinstitut (z. B. zum Weisungsschlüssel)

Ausführungsart  
(Keine Angabe bedeutet Standard)Weisungsschlüssel  
(Weisungen für Kreditinstitut)71: Entgeltregelung (Keine Angabe  
bedeutet alle Entgelte z. L. Kontoinhaber)

0 = Standard (S.W.I.F.T.)

1 = Eilig (S.W.I.F.T.)

2 = Scheckziehung

3 = Scheckziehung an Kontoinhaber

4 = Interpay

1 = Avis an Bank des Begünstigten

2 = Telefonavis an den Begünstigten

3 = Telex-/Fax-Avis an den Begünstigten

4 = Zahlung gegen Legitimation

0 = Entgeltteilung

1 = eigenes Entgelt z. L. Kontoinhaber

2 = fremdes Entgelt z. L. Begünstigten

1 = alle Entgelte z. L. Kontoinhaber

2 = alle Entgelte z. L. Begünstigten

Es gelten die „Bedingungen für den Überweisungsverkehr“,  
die wir Ihnen gerne zur Verfügung stellen.Bei Zahlungen zu Lasten Währungskonto  
Entgelte zu Lasten1 = Euro-Konto  
2 = Währungskonto  
(Ohne Weisung wird das zu  
belastende Konto angesprochen)

Meldung nach §§ 59 ff. der Außenwirtschaftsverordnung (AWV)

Befehlungen, Erläuterungen und Leistungsverzeichnis siehe Rückseiten

Die Zahlung erfolgte für:  
Ggf. Zahlungsbetrag aufteilen.1. Dienstleistungen, Übertragungen,  
KapitaltransaktionenFelder 105-111 ausfüllen.  
Kennzahlen anhand des  
Leistungsverzeichnisses angeben.

2. Transithandel

Feld 100 ankreuzen;  
Meldung auf Vordruck Z 4  
einreichen.

100

105: Kennzahl

106: Land (Erläuterungen beachten)

Länderschlüssel

107: Betrag in o.g. Währung (nur anzugeben bei mehr als einem Zahlungszweck)

108: Kennzahl

109: Land (Erläuterungen beachten)

Länderschlüssel

110: Betrag in o.g. Währung (nur anzugeben bei mehr als einem Zahlungszweck)

111: Nähere Angaben zu den zugrunde liegenden Leistungen bzw. zum Grundgeschäft (ggf. mit weiteren Beträgen)

Branchen

ZB-Firmennummer

Währung

Kontoführung / Sicherungsstempel

Datum

13.10.2004

Telefon / Durchwahl

0178-8474126

Unterschrift / Stempel

Girokonto 1000300558

Sparkasse Heidelberg BLZ 672 500 20

Kontoauszug 36

Blatt 1

Kontostand in EUR am 12.10.2004. Auszug Nr. 55 556.35+

13.10 Barumsatz	Wert: 13.10.2004	300.00+
14.10 Überweisung	Wert: 14.10.2004	599.75-
US PATENT AND TRADEMARK OFF	US PATENT AND TRADEMARK OFF	
04101454ZAO3045 AUFTRAG	USD720.00/1.2334	
COURTAGE 2.00	ABWICKL.GEB 14.00	
665 ISSUE FEE CODE 2452	AND 55 REVI	
VAL PETITION FEE CODE 2551	FOR APP.	
NR. 09/704. 803//	AWV-MELDEPFLICHT BEACHTEN	

Kontostand in EUR am 15.10.2004. 18:15 Uhr

256.58+

Gerd Krämer



Int. Bank Account Number:  
DE55 6725 0020 1000 3005 58  
SWIFT-BIC.: SOLADES1HDB

BEST AVAILABLE COPY

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Examiner: Starks, Wilbert L

**Missing Answer to my request from 27.Jan.2004 for refund  
of the prepaid fee for my petition to correct the filing date**

*Dear Senior Petitions Attorney Patricia Faison-Ball,*

In Part C) of my letter from 27.Jan.2004, I wrote:

„In my letter from the 7.Jan.2004 I asked, if the prepaid fee for my *„Petition to correct the filing date“* is remaining, because the USPTO legal office agreed with my legal arguments in my letter from the 25.Feb.2001 { 37 C.F.R. § 1.6 (a) (2) + § 1.10 (a) violates Article 2 (1) and Article 4 C.(1) of the Paris Convention, because facsimile transmission is not regarded as filing date; therefore USPS Express Mail deposit is regarded as filing date; but USPS is not available outside the U.S., and UPS Express Mail or other available express mail deposit is not regarded as filing date; – this violates the equal treatment principle in Article 2 (1) of the Paris Convention [*either one available express mail deposit or facsimile transmission (of the application) have to cause the filing date – otherwise an applicant outside the U.S. would be disadvantaged, which would violate Art. 2 (1) and unstatutorily shorten the period of Art. 4 C.(1) ]* }.

The *„Petition to correct the filing date“* had success, because UPS Express Mail deposit was timely made and facsimile transmission was timely made, too.

If this prepaid fee (130 \$) for the *„Petition to correct the filing date“* is remaining/refunded, I want this *„refund“* to be considered as a payment of a part of the issue fee.“

...

Until now, I've got no answer to this request to refund the petition fee.  
Please decide about this request.

Surely normally a petition fee (p.e. the petition fee for revival an abandoned patent) is not refunded if the petition has success.

But in the above case of the correction of the filing date the mistake is inside the law (Violation of Paris Convention)\*. In this case the petition fee (according filing date under § 1.53) should be refunded, because the mistake is inside the law and its impairing effects outside my rage of influence. For a mistake of the law makers (shurely it's only a little one and we've got much worse mistakes in our german trademark law) I should not be punished.

*With friendly greetings*

A handwritten signature in cursive script, appearing to read 'G. Krämer'.

*Gerd Krämer*

\*) see legal arguments in my letter from 25.Feb.2001